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Attorneys for Defendant  
MYRIAD GENETICS, INC.

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
(SAN FRANCISCO DIVISION)**

INVITAE CORPORATION, a Delaware  
corporation,

Plaintiff,

v.

MYRIAD GENETICS, INC., a Delaware  
corporation,

Defendant.

Case No. 13-cv-05495-JST

**STIPULATION AND ~~PROPOSED~~  
ORDER FOR EXTENSION OF TIME TO  
RESPOND TO COMPLAINT**

**Judge:** Hon. Jon S. Tigar

Pursuant to Local Rule 6-2, Plaintiff Invitae Corporation (“Invitae”) and Defendant Myriad Genetics, Inc. (“Myriad”) (together, the “Parties”), by and through counsel, hereby stipulate and respectfully ask the Court for an order extending the deadline for Myriad to file its responsive pleading to Invitae’s Complaint (Dkt. No. 1) until thirty (30) days after the Judicial Panel for Multi-District Litigation (the “Panel”) issues its ruling on Myriad’s November 8, 2013 motion to transfer certain actions involving, among other things, patents related to the BRCA1/2 genes to the United States District Court for the District of Utah for consolidated pre-trial proceedings (the “MDL Motion”).

In support of this Stipulation, Myriad and Invitae state the following:

1. On November 26, 2013, Invitae commenced this action against Myriad seeking a declaration of invalidity and noninfringement of certain patents owned by or exclusively licensed to Myriad.

2. Myriad’s responsive pleading is currently due on December 26, 2013.

3. Pursuant to the Court’s Order Setting Initial Case Management Conference and ADR Deadline (Dkt. No. 8) (the “Order”), the following additional deadlines are currently set in this action:

Date	Event
February 2, 2014	Last day to: <ul style="list-style-type: none"> <li>meet and confer re: initial disclosures, early settlement, ADR process selection, and discovery plan</li> <li>file ADR Certification signed by Parties and Counsel</li> <li>file either Stipulation to ADR Process or Notice of Need for ADR Phone Conference</li> </ul>
February 26, 2014	Last day to file Rule 26(f) Report, complete initial disclosures or state objection in Rule 26(f) Report and file Case Management Statement
March 5, 2014	INITIAL CASE MANAGEMENT CONFERENCE

4. On November 25, 2013, Myriad filed suit against Invitae in the United States District Court for the District of Utah, asserting infringement of the same patents at issue in this action (the “Utah Action”). On December 9, 2013, Invitae filed a motion to dismiss the Utah Action for lack of

1 personal jurisdiction.

2       5.       Certain of the patents at issue in this action and in the Utah Action are also at issue in  
3 five other actions filed by Myriad in the United States District Court for the District of Utah and  
4 two other actions filed against Myriad (one in this District [*Counsyl, Inc. v. Myriad Genetics, Inc.*,  
5 Case No. CV-13-04391-EJD]; the other in the United States District Court for the Central District  
6 of California).

7       6.       On November 8, 2013, Myriad filed its MDL Motion with the Panel to have the  
8 actions pending in the United States District Courts for the Northern and Central Districts of  
9 California referenced in Paragraph 5, above, transferred to the United States District Court for the  
10 District of Utah for consolidated pre-trial proceedings before The Honorable Robert Shelby, before  
11 whom the earliest Utah actions are pending.

12       7.       On November 27, 2013 and December 4, 2013, respectively, Myriad filed notices  
13 with the Panel and this Court identifying this action as a potential tag-along action with respect to  
14 any consolidated proceedings ordered by the Panel.

15       8.       The Panel will hear Myriad's MDL Motion at the Panel's next sitting (January 30,  
16 2014, in New Orleans, Louisiana).

17       9.       Because the Panel's anticipated ruling on Myriad's MDL Motion may have a  
18 substantial impact on Myriad's positions on personal jurisdiction and other issues relevant to this  
19 and the Utah Action, Myriad and Invitae stipulate and respectfully seek an order from the Court  
20 extending the deadline for Myriad's responsive pleading until thirty (30) days after the Panel  
21 issues its ruling on Myriad's MDL Motion. Myriad and Invitae are also seeking a corresponding  
22 extension of Myriad's deadline to file an opposition to Invitae's motion to dismiss in the Utah  
23 Action. Myriad has agreed not to file a motion for injunctive relief against Invitae prior to the  
24 Panel's ruling on Myriad's MDL Motion.

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10. The Parties respectfully note that any extension of the deadline for Myriad's responsive pleading is also likely to necessitate an extension of the current deadlines set by the Court's previously-referenced Order. The Parties thus propose and stipulate to the following modifications of the dates currently set in this action:

Event	Current Deadline	Proposed New Deadline
Myriad Response to Complaint	December 26, 2014	30 days after the Panel issues its ruling on Myriad's MDL Motion
Last day to: <ul style="list-style-type: none"> <li>meet and confer re: initial disclosures, early settlement, ADR process selection, and discovery plan</li> <li>file ADR Certification signed by Parties and Counsel</li> <li>file either Stipulation to ADR Process or Notice of Need for ADR Phone Conference</li> </ul>	February 2, 2014	21 days prior to the Initial Case Management Conference [to be reset by Court]
Last day to file Rule 26(f) Report, complete initial disclosures or state objection in Rule 26(f) Report and file Case Management Statement	February 26, 2014	14 days prior to the Initial Case Management Conference [to be reset by Court]
INITIAL CASE MANAGEMENT CONFERENCE	March 5, 2014	To be reset by Court

11. There have been no previous time modifications in this case, either by stipulation or by Court order.

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12. The Parties will immediately notify the Court of the Panel's ruling on Myriad's MDL Motion.

**IT IS SO STIPULATED.**

Dated: December 19, 2013

**FISH & RICHARDSON P.C.**

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**Attorneys for Defendant  
MYRIAD GENETICS, INC.**

Dated: December 19, 2013

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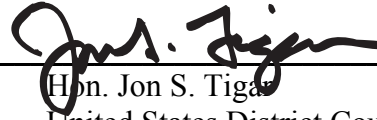
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**Attorneys for Plaintiff  
INVITAE CORPORATION**

**~~PROPOSED~~ ORDER**

**PURSUANT TO STIPULATION, IT IS SO ORDERED,**

Dated: December 20, 2013



Hon. Jon S. Tigar  
United States District Court Judge